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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/202,336	12/14/1998	ERLAND WITTKOTTER	HPB-7	2766
826	7590	12/04/2003	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			BACKER, FIRMIN	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 12/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/202,336	WITTKOTTER, ERLAND
	Examiner	Art Unit
	Firmin Backer	3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 November 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 3-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1 and 3-18 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

This is in response to an amendment file on November 22nd, 2003 for letter for patent filed on December 14th, 1998. In the amendment, claims 1 and 9 have been amended, no claim has been canceled, and no claim has been added. Claims 1, 3-18 remain pending in the letter.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Blatter et al '873 in view of Yasukawa et al '622.

Regarding all of the above claims:

Blatter et al teach a data storage and decoding means, figure 1, such that Applicant's local computer system reads on element 25 and column 3, lines 44 - 49, Applicant's external data source reads on element 130, Applicant's local data storage means reads on elements 95, 90 and 105 and column 4, lines 61 – 64, Applicant's linking means reads on elements 115 and 110 and 70, Applicants' protection data reads on the encryption keys of smart card, element 130, Applicant's storing in a non-reconstructed form reads on the PIDs and column 4, lines 41 – 55 and Applicants' non-linearity of the data storage means reads on column 14, lines 41 – 49. Blatter et al fail to teach an inventive concept

wherein the internet is used in order to protect the distribution of data files. However, Yasukawa et al teach an inventive concept wherein the internet is used in order to protect the distribution of data files read in abstract, fig 2. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Blatter et al's inventive concept to include Yasukawa et al's an inventive concept wherein the internet is used in order to protect the distribution of data files because this would have facilitate obtaining data files from the protected sources by any remote user.

Regarding particularly claims 3 and 10:

Applicant's operational instructions read on column 5, lines 19 – 26.

Regarding claim 4:

Applicant's storage means reads on column 6, lines 34 – 43.

Regarding claims 5 and 12

Blatter et al teach that their program (encrypted) contains gaps wherein CPSI (Condensed program specific information), used for mapping data, can be placed, columns 13 and 14, lines 34 – 42 and lines 7 – 20, respectively. This information is used in conjunction with the smart card to de-map the data stored in the storage devices. Therefore, it is considered that it would have been obvious to one of ordinary skill in the art at the time of the invention to receive this information to fill the gaps via a smart card (as this claim is interpreted as performing by the Examiner) rather than by the system, element 25, of Blatter et al., e.g., if the smart card is a “store owned” smart card and all of the data of the videos (programs) received is certain to be arranged the same way.

Regarding claims 6 and 17:

The language of Applicant's claim 6 reads on the smart card, element 130 and an inherent smart card reader (interface).

Regarding claims 7 and 13:

Applicant's identification and billing data read on Blatter et al's entitlement data of smart card, element 130.

Regarding claim 8:

Applicant's control module reads on element 125.

Regarding claim 9:

Applicant's step of ensuring reads on the encryption of the programs disclosed in Blatter et al.

Regarding claims 14 and 15:

Applicant's step of encoding reads on the keys of element 130, Applicant's step of transmitting reads on an inherent smart card reader/interface and Applicant's step of decoding reads on elements 115 and 33.

Regarding claim 16:

Applicant's plurality of document units reads on Blatter et al's plurality of video programs.

Regarding claim 18:

Applicant's data reads on column 3, lines 43 – 49 and column 9, lines 59 – 62.

Response to Arguments

Applicant's arguments filed November 22nd, 2003 have been fully considered but they are not persuasive.

Applicant argues that the prior art fail to teach an inventive concept wherein a local computer system includes means capable of receiving and processing additional protection data provided by the external data source by way of the internet in each session as no recited by the amended claims 1 and 9. Examiner respectfully disagrees with applicant characterization of the prior art of Blatter 873 and Yasukawa '622. Yasukawa et al teach a system in which as the data segments are encrypted, the encryption information and encryption patterns are stored in a bitmap table which is distributed along with the encrypted digital information. An end user can obtain encrypted digital information from a data depository (e.g. via modem, wireless connection, Internet connection, computer network connection, network, etc.) and store the encrypted digital information directly in memory. The information is typically divided into two parts: (1) an encrypted part which contains a complete copy of the information; and (2) a non-encrypted part which is used to preview the encrypted digital information and identifies the proprietor of the information. The encrypted part 44 is the actual digital information (e.g. game, application, multimedia information) which cannot be used without a decryption key which can be obtained only after paying a required fee. The user first preview the digital information, and if wishes to use or "purchase" the digital information, the end user must request a decryption key to decrypt the encrypted part of the digital information. The end user will make a request for a decryption key from a key distribution center using a modem, an internet connection, a satellite

connection, etc. Upon receiving the decryption key request, the key distribution center requests a fee from the end user (*see column 4 lines 1-64*).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

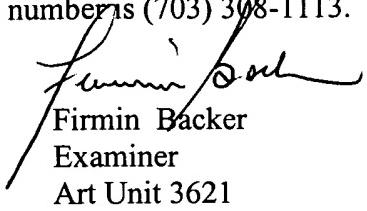
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Firmin Backer whose telephone number is (703) 305-0624. The examiner can normally be reached on Mon-Thu 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Art Unit: 3621

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


Firmin Backer
Examiner
Art Unit 3621

December 3, 2003